



House of Representatives

General Assembly

File No. 681

January Session, 2011

Substitute House Bill No. 6634

House of Representatives, May 2, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE JUVENILE JUSTICE SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-133 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Nothing in this part shall be construed as preventing the arrest of
4 a child, with or without a warrant, as may be provided by law, or as
5 preventing the issuance of warrants by judges in the manner provided
6 by section 54-2a, except that no child shall be taken into custody on
7 such process except on apprehension in the act, or on speedy
8 information, or in other cases when the use of such process appears
9 imperative. Whenever a child is arrested and charged with a crime,
10 such child may be required to submit to the taking of his photograph,
11 physical description and fingerprints. Notwithstanding the provisions
12 of section 46b-124, the name, photograph and custody status of any
13 child arrested for the commission of a capital felony or class A felony
14 may be disclosed to the public.

15 (b) Whenever a child is brought before a judge of the Superior
16 Court, such judge shall immediately have the case proceeded upon as
17 a juvenile matter. Such judge may admit the child to bail or release the
18 child in the custody of the child's parent or parents, the child's
19 guardian or some other suitable person to appear before the Superior
20 Court when ordered. If detention becomes necessary, such detention
21 shall be in the manner prescribed by this chapter, provided the child
22 shall be placed in the least restrictive environment possible in a
23 manner consistent with public safety.

24 (c) Upon the arrest of any child by an officer, such officer may (1)
25 release the child to the custody of the child's parent or parents,
26 guardian or some other suitable person or agency, (2) at the discretion
27 of the officer, release the child to the child's own custody, or (3)
28 [immediately turn] seek a court order to detain the child [over to] in a
29 juvenile detention center. No child shall be placed in detention unless
30 it appears from the available facts that there is probable cause to
31 believe that the child has committed the acts alleged, there is no less
32 restrictive alternative available and there is (A) a strong probability
33 that the child will run away prior to the court hearing or disposition,
34 (B) a strong probability that the child will commit or attempt to
35 commit other offenses injurious to the child or to the community prior
36 to the court disposition, (C) probable cause to believe that the child's
37 continued residence in the child's home pending disposition poses a
38 risk to the child or the community because of the serious and
39 dangerous nature of the act or acts the child is alleged to have
40 committed, (D) a need to hold the child for another jurisdiction, (E) a
41 need to hold the child to assure the child's appearance before the court,
42 in view of the child's previous failure to respond to the court process,
43 or (F) the child has violated one or more of the conditions of a
44 suspended detention order. No child shall be held in any detention
45 center unless an order to detain is issued by a judge of the Superior
46 Court.

47 (d) When a child is arrested for the commission of a delinquent act
48 and the child is not placed in detention or referred to a diversionary

49 program, an officer shall serve a written complaint and summons on
50 the child and the child's parent, guardian or some other suitable
51 person or agency. If such child is released to the child's own custody,
52 the officer shall make reasonable efforts to notify, and to provide a
53 copy of a written complaint and summons to, the parent or guardian
54 or some other suitable person or agency prior to the court date on the
55 summons. If any person so summoned wilfully fails to appear in court
56 at the time and place so specified, the court may issue a warrant for the
57 child's arrest or a *capias* to assure the appearance in court of such
58 parent, guardian or other person. If a child wilfully fails to appear in
59 response to such a summons, the court may order such child taken into
60 custody and such child may be charged with the delinquent act of
61 wilful failure to appear under section 46b-120. The court may punish
62 for contempt, as provided in section 46b-121, any parent, guardian or
63 other person so summoned who wilfully fails to appear in court at the
64 time and place so specified.

65 [(d)] (e) The court or detention supervisor may turn such child over
66 to a youth service program created for such purpose, if such course is
67 practicable, or such child may be detained pending a hearing which
68 shall be held on the business day next following the child's arrest. No
69 child shall be detained after such hearing or held in detention pursuant
70 to a court order unless it appears from the available facts [that] there is
71 probable cause to believe that the child has committed the acts alleged,
72 there is no less restrictive alternative available and that there is (1) a
73 strong probability that the child will run away prior to the court
74 hearing or disposition, (2) a strong probability that the child will
75 commit or attempt to commit other offenses injurious to the child or to
76 the community prior to the court disposition, (3) probable cause to
77 believe that the child's continued residence in the child's home
78 pending disposition poses a risk to the child or the community because
79 of the serious and dangerous nature of the act or acts the child is
80 alleged to have committed, (4) a need to hold the child for another
81 jurisdiction, (5) a need to hold the child to assure the child's
82 appearance before the court, in view of the child's previous failure to
83 respond to the court process, or (6) the child has violated one or more

84 of the conditions of a suspended detention order. Such probable cause
85 may be shown by sworn affidavit in lieu of testimony. No child shall
86 be released from detention who is alleged to have committed a serious
87 juvenile offense except by order of a judge of the Superior Court. Any
88 child confined in a community correctional center or lockup shall be
89 held in an area separate and apart from any adult detainee, except in
90 the case of a nursing infant, and no child shall at any time be held in
91 solitary confinement. When a female child is held in custody, she shall,
92 as far as possible, be in the charge of a woman attendant.

93 [(e)] (f) The police officer who brings a child into detention shall
94 have first notified, or made a reasonable effort to notify, the parents or
95 guardian of the child in question of the intended action and shall file at
96 the detention center a signed statement setting forth the alleged
97 delinquent conduct of the child. Unless the arrest was for a serious
98 juvenile offense or unless an order not to release is noted on the take
99 into custody order, arrest warrant or order to detain, the child may be
100 released by a detention supervisor to the custody of the child's parent
101 or parents, guardian or some other suitable person or agency.

102 [(f)] (g) In conjunction with any order of release from detention, the
103 court may, when it has reason to believe a child is alcohol-dependent
104 or drug-dependent as defined in section 46b-120, and where necessary,
105 reasonable and appropriate, order the child to participate in a program
106 of periodic alcohol or drug testing and treatment as a condition of such
107 release. The results of any such alcohol or drug test shall be admissible
108 only for the purposes of enforcing the conditions of release from
109 detention.

110 [(g)] (h) [Whenever the population of a juvenile detention center
111 equals or exceeds the maximum capacity for such center, as
112 determined by the Judicial Branch, the] The detention supervisor of a
113 juvenile detention center in charge of intake shall admit only a child
114 who: (1) Is [charged with the commission of a serious juvenile offense,
115 (2) is] the subject of an order to detain or an outstanding court order to
116 take such child into custody, [(3)] (2) is ordered by a court to be held in

117 detention, or [(4)] (3) is being transferred to such center to await a
118 court appearance.

119 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) On and after July 1, 2013,
120 no child convicted as delinquent and committed to the custody of the
121 Commissioner of Children and Families may be placed in a location
122 outside of this state unless the superior court for juvenile matters
123 specifically finds that the Department of Children and Families has
124 established that such placement is necessary, appropriate and not
125 unfairly discriminatory and will provide the child with necessary care
126 and treatment in the least restrictive environment available. After any
127 such child is placed in a location outside of this state, the department
128 shall develop a plan to return the child to an appropriate facility or
129 family residence within this state. Not later than ninety days after a
130 child is placed in a location outside of this state in accordance with this
131 section, the department shall submit a report to the court regarding the
132 child's status and the status of the department's plan to return the child
133 to an appropriate facility or family residence within this state. The
134 department shall submit such report every ninety days thereafter
135 while the child is placed in a location outside of this state.

136 (b) Not later than January 1, 2014, and annually thereafter, the
137 Commissioner of Children and Families shall submit a report to the
138 joint standing committee of the General Assembly having cognizance
139 of matters relating to the judiciary, in accordance with section 11-4a of
140 the general statutes, regarding children who have been placed outside
141 of this state during the prior year, the status of such placements, the
142 reasons for such placements and the department's plan to return such
143 children to an appropriate facility or family residence within this state.
144 Such report shall not include individually-identifiable information.

145 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this
146 section, "disproportionate minority contact" means that a
147 disproportionate number of children from minority groups come into
148 contact with the juvenile justice system.

149 (b) Not later than July 1, 2013, the Department of Children and

150 Families shall relocate each child who is committed to the custody of
151 the commissioner and placed in a location outside of this state to a
152 location within this state, except as provided in section 2 of this act.

153 (c) In order to prepare for the relocation of such children pursuant
154 to subsection (b) of this section, the department shall develop a plan,
155 after consultation with the Court Support Services Division within the
156 Judicial Department, persons who provide services to such children
157 within and outside of this state, child welfare, juvenile justice and
158 mental health advocates, and members of families who receive mental
159 health and child welfare services related to delinquency matters, in
160 order to:

161 (1) Identify funds allocated for services and placements outside of
162 this state and reallocate such funds for community-based services in
163 this state;

164 (2) Ensure that no disproportionate minority contact exists when
165 children are committed to the custody of the Department of Children
166 and Families, including, but not limited to, commitments that qualify
167 for placement in a congregate care facility or other community-based
168 facility; and

169 (3) Maximize the receipt of federal funds by the department to
170 promote the development of community-based services that support
171 children transitioning from placements outside of this state to
172 placements within this state.

173 (d) Not later than December 31, 2011, the department shall submit a
174 report to the joint standing committee of the General Assembly having
175 cognizance of matters relating to the judiciary, in accordance with
176 section 11-4a of the general statutes, that indicates the progress the
177 department has made in meeting the requirements of this section.

178 Sec. 4. (NEW) (*Effective from passage*) Not later than September 30,
179 2011, and annually thereafter, the Commissioner of Children and
180 Families, the Commissioner of Public Safety, the Chief State's Attorney,

181 the Chief Public Defender, the Chief Court Administrator and the
 182 Police Officer Standards and Training Council shall submit a report, on
 183 behalf of the respective department, division, office or council, to the
 184 Secretary of the Office of Policy and Management on the plans
 185 established by the department, division, office or council to address
 186 disproportionate minority contact in the juvenile justice system and
 187 the steps taken to implement those plans during the previous fiscal
 188 year. Any reports submitted by the Commissioner of Children and
 189 Families and the Chief Court Administrator, or on behalf of any other
 190 such department, division, office or council that has responsibility for
 191 providing child welfare services, including services in abuse and
 192 neglect cases, shall (1) indicate efforts undertaken in the prior fiscal
 193 year to address disproportionate minority contact in the child welfare
 194 system, and (2) include an evaluation of the relationship between the
 195 child welfare system and disproportionate minority contact in the
 196 juvenile justice system. The Secretary of the Office of Policy and
 197 Management shall compile the submissions and shall submit a report
 198 on such submissions, in accordance with section 11-4a of the general
 199 statutes, to the Governor and the General Assembly not later than
 200 December thirty-first annually. For the purposes of this section,
 201 "disproportionate minority contact" means that a disproportionate
 202 number of juvenile members of minority groups come into contact
 203 with the juvenile justice system.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	46b-133
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>from passage</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Savings	105,000	140,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill would require an arresting officer to obtain a court order prior to placing a child in a juvenile detention center, would not result in a cost to law enforcement agencies. The number of children requiring a court order for detention placement is estimated to be one to two a day on average statewide. It is anticipated that court orders will be received in a timely manner. Given that relatively few juveniles would be affected by the bill and in anticipation that court orders will be timely, there is no fiscal impact to law enforcement agencies.

To the extent requiring a court order limits the number of children in a juvenile detention center, a savings of \$105,000 in FY 12¹ and \$140,000 in FY 13 to the Judicial Department would result. This estimate assumes 15 less juveniles will be admitted to a juvenile detention center annually as a result of the bill.²

There is no fiscal impact to the Judicial Department related to the reporting requirements of the bill. In addition, there is no fiscal impact to the Department of Children and Families to comply with other provisions of the bill.

¹ This FY 12 figure reflects an October 1, 2011 effective date.

² On average it costs \$306 per day to hold a juvenile in a secure state detention center. The average length of stay in a juvenile detention is 30 days.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department

OLR Bill Analysis**sHB 6634*****AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE JUVENILE JUSTICE SYSTEM.*****SUMMARY:**

This bill prohibits police officers from placing children they arrest, but who have not yet appeared before a judge, in a juvenile detention center without a court order. It also:

1. allows detention center intake supervisors to admit only a child who is (a) the subject of an order to detain, (b) ordered by a court to be held in detention, or (c) transferred to the center to await a court appearance;
2. eliminates a provision specifying the classes of offender and pretrial detainees that can be admitted to an overcrowded juvenile detention center; and
3. requires legislative and executive branch reports on (a) out-of-state placements, (b) actions to address disproportionate minority contact (DMC), and (c) in some circumstances, to report on the relationships between the child welfare and juvenile justice systems.

Under the bill, DMC means that a disproportionate number of juvenile members of minority groups come into contact with the juvenile justice system.

EFFECTIVE DATE: October 1, 2011, except the multi-agency DMC reporting requirement is effective upon passage.

§1 — ARRESTED CHILDREN

Under current law, a police officer who arrests a child can (1) release the child into a parent or suitable adult's custody, (2) release the child into his or her own custody, or (3) turn the child over to a juvenile detention center. The bill requires the police to get a court order to place the child in detention. The court cannot order detention unless it finds probable cause to believe that the child has committed the alleged acts and there is no less restrictive alternative. It must then find at least one of the following:

1. a strong probability that the child will run away or commit or attempt to commit another crime injurious to the child or community,
2. probable cause to believe that the child's continued residence in the child's home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed,
3. a need to hold the child (a) for another jurisdiction or (b), to assure the child's appearance before the court in view of the child's previous failure to respond to the court process, or
4. the child has violated one or more of the conditions of a suspended detention order.

These are the same considerations used to determine whether to admit a child to pretrial detention.

§2 — CHILDREN IN OUT-OF-STATE PLACEMENTS

Starting July 1, 2013, the bill prohibits the Department of Children and Families (DCF) commissioner from placing delinquent children out of state without a specific Superior Court finding that DCF has established that the placement (1) is necessary, appropriate, and not unfairly discriminatory and (2) will provide the child with necessary care and treatment in the least restrictive environment available.

After a child is placed out-of-state, DCF must develop a plan to

return him or her to an appropriate facility or family residence in Connecticut. It must report to the court within 90 days of the child's placement on the child's status and the status of DCF's plan to return the child to the state. DCF must submit these reports every 90 days while the child remains out-of-state.

Status Report

Beginning January 1, 2014 the DCF commissioner must annually report to the Judiciary Committee concerning children in out-of-state placements during the previous year, the status of their placements, and DCF's plan to return them to Connecticut. The report cannot contain any personally-identifying information about the affected children.

§3 — RELOCATION PLAN

The bill requires DCF to develop a relocation plan after consulting with (1) the Judicial Branch's Court Support Services Division; (2) in-state and out-of-state service providers; (3) child welfare, juvenile justice, and mental health advocates; and (4) family members who receive delinquency-related mental health and child welfare services.

The plan must:

1. identify funds allocated for out-of-state services and placements and reallocate them for in-state community-based services,
2. ensure that no DMC exists when children are committed to DCF, including commitments that qualify for placement in a congregate facility or other community-based facility; and
3. maximize DCF's receipt of federal funds to promote the development of community-based services that support children transitioning from out-of-state placements.

The commissioner must implement the plan so that only those children with court approval still remain in out-of-state placements after July 1, 2013. She must also submit annual progress reports to the

Judiciary Committee starting December 31, 2011.

§ 4 — DISPROPORTIONATE MINORITY CONTACT REPORTS

By September 30, 2011, the (1) DCF and public safety commissioners, (2) chief state's attorney, (3) chief public defender, (4) chief court administrator and (5) Police Officer Training Council must each annually report to the Office of Policy and Management (OPM) on the plans they have developed and steps taken in the previous year to address DMC in the juvenile justice system.

If any of these entities submit a report on behalf of a child welfare agency, that report must:

1. indicate the efforts undertaken in the prior fiscal year to address DMC in the child welfare system and
2. include an evaluation of the relationship between the child welfare and juvenile justice systems.

The OPM secretary must compile the submissions and annually submit a report to the governor and legislature by December 31, 2011.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 2 (04/12/2011)